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EXAMINER

LAFORGIA, CHRISTIAN A

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/461,487

Applicant(s)

JUSTER, DORON

Examiner

Christian La Forgia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☒ Claim(s) 17 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed on 22 April 2003 is noted and made of record.
2. Claims 1 through 29 are presented for examination.

Drawings

3. After reconsideration of the drawings, the objection to the drawings is withdrawn by the Examiner.

4. The Patent and Trademark Office no longer makes drawing changes. See 1017 O.G. 4.

It is applicant's responsibility to ensure that the drawings are corrected. Corrections must be made in accordance with the instructions below.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. **Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. **Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

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Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.185(a). Failure to take corrective action within the set (or extended) period will result in **ABANDONMENT** of the application.

Response to Amendment

5. Applicant's reply was received in the Office on 22 April 2003, which is after the expiration of the period for reply set in the last Office Action mailed on 18 December 2003 plus the one-month extension (putting the due date at 18 April 2003). This application will become abandoned unless applicant obtains an extension of time to reply to the last Office Action under 37 CFR 1.136(a).

Response to Arguments

6. Applicant's arguments with respect to claims 1 through 28 have been considered but are moot in view of the new ground(s) of rejection.

7. See further 35 USC § 102 and 35 USC § 103 rejections below.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1, 6, 11, 16, 18, 19, 22, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear from the claim language whether the server is online and sending a message that it is offline or that the server is actually offline. In addition to the indefiniteness regarding the state of the server, the *Microsoft Knowledge Base Articles* offer examples of several types of off-line error messages that render the claim language unclear.

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10. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “off-time” in claim 18 is used by the claim to mean “off-line.” The term is indefinite because the specification does not clearly redefine the term.

Claim Rejections - 35 USC § 102

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claims 1, 6, 11, 16, 18 through 24, and 26 through 28 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6,389,448 to Primak et al. (hereinafter Primak).

13. As per claim 1, Primak teaches a computer-implemented method comprising:

14. sending a request from a client to a server of a list of servers (Figure 1, 2a, 2b [block 20], 5; column 3, lines 29-48);

15. determining at the server whether the server is inappropriate to fulfill the request (Figures 2a [blocks 12], 2b [block 12], 4a [blocks 12 & 13]; column 4, lines 39-46);

16. upon determining that the server is inappropriate to fulfill the request,

sending an error message from the server to the client that the server is off-line (Figures 2a, 2b, 5, 6; column 4, lines 7-39); and,

upon receiving the error message at the client, automatically repeating the sending the request to a next server of the list until the error message is not received (Figures 1

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[block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

It is inherently understood that if a server in a group of servers is unavailable or offline, the server or general computer that is in charge of maintaining all of the servers will return a default message that the server is offline.

17. As per claim 6, Primak teaches a machine-readable medium having instructions stored thereon for execution by a processor of a client to perform a method comprising:

18. sending a request to a server of a list of servers (Figure 1, 2a, 2b [block 20], 5; column 3, lines 29-48);

19. receiving a response to the request from the server (Figure 4a [block 13]; column 4, lines 39-46); and,

20. upon determining that the response comprises an error message that the server is off-line, as used by the server when the serve is inappropriate to fulfill the request, automatically repeating the sending of the request to a next server of the list until the error message is not received (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

21. As per claim 11, Primak teaches a computerized system comprising:

22. a plurality of servers, each server designed to send an error message that the server is off-line in response to receiving a request from the server is unable to fulfill locally and received from a client of a predetermined type (Figures 1 [blocks 10(a), 10(b), 10(c)], 2a [blocks 10(a),

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10(b), 10(c), 30], 2b [blocks 10(a), 10(b), 10(c), 20, 30], 3 [blocks 10(a), 10(b), 10(c), 30], 5; column 3, lines 29-48; column 4, lines 7-39; column 5, lines 3-37); and,

23. a client of the predetermined type and designed to automatically repeat the sending of a request to a different one of the plurality of servers until the error message is not received in response (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

24. As per claim 16, Primak teaches a client computer comprising:

25. a communications device (Figures 1 [block 30], 2a [block 30], 2b [block 30], 3 [block 30]; column 3, lines 29-48); and,

26. a computer program designed to automatically repeat sending a request to a different server of a list of servers via the communications device until an error message indicating a server receiving the request is off-line is not received (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

27. As per claim 18, Primak teaches a machine-readable medium having instructions stored thereon for execution by a processor to transform a general purpose computer to a special purpose computer comprising:

28. a communications device (Figures 1 [block 30], 2a [block 30], 2b [block 30], 3 [block 30]; column 3, lines 29-48); and,

29. means for automatically repeating the sending a request to a different server of a list of servers via the communications device until an error message that the server is off-line as used

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by the server when the server is inappropriate to fulfill the request is not received in response (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

30. As per claim 19, Primak teaches a machine-readable medium having instructions stored thereon for execution by a processor of a server to perform a method comprising:

31. receiving a request from a client (Figure 1, 2a, 2b [block 20], 5; column 3, lines 29-48);

32. determining whether the server is inappropriate to fulfill the request (Figures 2a [blocks 12], 2b [block 12], 4a [blocks 12 & 13]; column 4, lines 39-46);

33. determining whether the client is of a predetermined type (column 3, line 48 to column 4, line 26); and,

34. upon determining that the server is inappropriate to fulfill the request and that the client is of a non-delegable client that does not understand a delegation of the request to another server, sending an error message to the client that the server is offline (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

35. With regards to claim 20, Primak teaches the method further comprising:

36. determining whether the client is of a second predetermined type (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39);

37. upon determining that the server is inappropriate to fulfill the request and that the client is of the second predetermined type, delegating the request to another server (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

38. Regarding claim 21, Primak teaches the method further comprising upon determining that the server is appropriate to fulfill the request, fulfilling the request (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

39. As per claim 22, Primak teaches a server computer comprising:

40. a communications device (Figures 1 [block 30], 2a [block 30], 2b [block 30], 3 [block 30]; column 3, lines 29-48); and,

41. a computer program designed to send via the communications device an error message that a server computer is off-line in response to a request from a non-delegable client that does not understand a delegation of the request to another server when the server computer is inappropriate to fulfill the request (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

42. With regards to claim 23, Primak teaches wherein the computer program is further designed to delegate the request to another server computer via the communications device in response to a request from a client of a second predetermined type when the server computer is inappropriate to fulfill the request (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

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43. Regarding claim 24, Primak teaches wherein the computer program is further designed to fulfill the request when the server computer is appropriate to fulfill the request (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

44. As per claim 26, Primak teaches a machine-readable medium having instructions stored thereon for execution by a processor to transform a general purpose computer to a special purpose computer comprising:

45. a communications device (Figures 1 [block 30], 2a [block 30], 2b [block 30], 3 [block 30]; column 3, lines 29-48); and,

46. means for sending via the communications device an error message that the computer is off-line in response to a request from a non-delegable client that does not understand a delegation of the request to another server when the computer is inappropriate to fulfill the request (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

47. Regarding claim 27, Primak teaches wherein the means is further for delegating the request to another computer via the communications device in response to a request from a client of a second predetermined type when the computer is inappropriate to fulfill the request (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

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48. With regards to claim 28, Primak teaches wherein the means is further for fulfilling the request when the computer is appropriate to fulfill the request (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

49. With regards to claim 29, Primak teaches wherein the second predetermined type is a delegable client that understands a delegation of the request to another server (Figures 1 [block 30], 2a [block 30], 2b [blocks 20 & 30], & 5; column 3, lines 29-48; column 4, lines 27-39).

Claim Rejections - 35 USC § 103

50. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

51. Claims 2, 3, 7, 8, 17, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Primak in view of United States Patent No. 5,535,322 to Hecht.

52. Regarding claim 2, Primak does not teach wherein sending a request from a client to a server comprises generating the request at a queue manager of the client.

53. Hecht teaches wherein sending a request from a client to a server comprises generating the request at a queue manager of the client (Abstract; Figure 4; column 8, lines 34-54).

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include queue manager of Hecht with the system of Primak, because it would enable a quicker and more efficient way to find an appropriate server to service the client's request. One would be motivated to combine the queue manager with the system of Primak because it would assist outgoing and incoming requests without slowing down the system.

54. With regards to claim 3, Primak does not teach wherein sending a request from a client to a server further comprises receiving the request from the queue manager at an application programming interface (API) of the client.

55. Hecht teaches wherein sending a request from a client to a server further comprises receiving the request from the queue manager at an application programming interface (API) of the client (Figures 10 & 11; column 15, lines 33-47). It would have been obvious to one with ordinary skill in the art at the time the invention was made to include the API of Hecht with the system of Primak, because it would enable a quicker and more efficient way to manage the various client's requests. One would be motivated to combine the APIs of Hecht with the system of Primak because they offer an interface to better manage incoming and outgoing requests, instead of having the system manage the requests in the background.

56. Claims 7 and 8 are rejected for similar reasons as above.

57. Regarding claim 17, Primak does not teach a processor and a computer-readable medium, such that the computer program is executed by the processor from the medium.

58. Hecht teaches a processor and a computer-readable medium, such that the computer program is executed by the processor from the medium (Figures 2 & 3; column 7, lines 42-67). Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the processor and computer-readable medium of Hecht with the system of Primak, because they would aid in processing the various requests of the client.

59. Concerning claim 25, Primak does not teach a processor and a computer-readable medium, such that the computer is executed by the processor from the medium.

60. Hecht teaches a processor and a computer-readable medium, such that the computer is executed by the processor from the medium (Figures 2 & 3; column 7, lines 42-67). Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the processor and computer-readable medium of Hecht with the system of Primak, because they would aid in processing the various requests of the client.

61. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Primak in view of Hecht as applied to claim 3 above, and further in view of Takano.

62. Regarding claim 4, neither Primak nor Hecht teaches wherein sending a request from a client to a server further comprises receiving the request from the API at a component of the client that maintains the list of servers.

63. Takano teaches wherein sending a request from a client to a server further comprises receiving the request from the API at a component of the client that maintains the list of servers (Figures 2, 3, 4, & 5; column 4, lines 1-10; column 4, line 65 to column 5, line 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the delegation means of Takano with the system Primak, because it would enable a quicker means to resolve which server should respond to the client's request. One would be motivated to combine the delegation of Takano with the current system because it encourages the servers to communicate and be knowledgeable of the servers around them.

64. Claim 9 is rejected for similar reasons as stated above.

65. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Primak in view of Hecht, and further in view of Takano and United States Patent No. 5,617,570 to Russell et al., (hereinafter Russell).

66. Concerning claim 5, neither Primak, Takano nor Hecht teach wherein sending a request from a client to a server further comprises sending the request using a remote procedure call of the client.

67. Russell teaches wherein sending a request from a client to a server further comprises sending the request using a remote procedure call of the client (Abstract; column 3, lines 53-65). It would have been obvious to one with ordinary skill in the art at the time the invention was made to include the remote procedure calls of Russell with the system of Primak, Takano and Hecht, because it would enable a quicker and more efficient way for client's requests to be passed off to the appropriate server.

68. Claim 10 is rejected for similar reasons as stated above.

69. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Primak in view of United States Patent No. 5,884,301 to Takano.

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70. Regarding claim 12, Primak does not teach wherein each of the plurality of servers is further designed to delegate to another of the plurality of servers a request the server is unable to fulfill locally and received from a client of a second predetermined type.

71. Takano teaches wherein each of the plurality of servers is further designed to delegate to another of the plurality of servers a request the server is unable to fulfill locally and received from a client of a second predetermined type (Figures 6, 7, & 8; column 5, line 56 to column 6, line 26; column 6, lines 30-56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the delegation means of Takano with the system Primak, because it would enable a quicker means to resolve which server should respond to the client's request. One would be motivated to combine the delegation of Takano with the current system because it encourages the servers to communicate and be knowledgeable of the servers around them.

72. With regards to claim 13, Primak does not teach a second client of the second predetermined type and designed to send a request to one of the plurality of servers.

73. Takano teaches a second client of the second predetermined type and designed to send a request to one of the plurality of servers (Figures 6, 7, & 8; column 5, line 56 to column 6, line 26; column 6, lines 30-56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the delegation means of Takano with the system Primak, because it would enable a quicker means to resolve which server should respond to the client's request. One would be motivated to combine the delegation of Takano with the current

system because it encourages the servers to communicate and be knowledgeable of the servers around them.

74. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Primak in view of Takano as applied to claim 13 above, and further in view of Hecht.

75. Concerning claim 14, Takano teaches the client comprises:

76. a directory server component designed to locate a server able to fulfill the request (Figures 1, 3, 5, 6, & 7; column 3, lines 38-64; column 4, lines 15-40).

77. Neither Primak nor Takano teaches the client comprises:

78. a query manager designed to generate the request.

79. Hecht teaches:

80. a query manager designed to generate the request (Abstract; Figure 4; column 8, lines 34-54). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include queue manager of Hecht with the combined system of Primak and Takano, because it would enable a quicker and more efficient way to find an appropriate server to service the client's request.

81. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Primak in view of Takano as applied to claim 14 above, and further in view of Hecht and Russell.

82. With regards to claim 15, Hecht teaches the directory server component comprises:

83. an API designed to receive the request from the query manager (Figures 10 & 11; column 15, lines 33-47);

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84. a component designed to maintain a list of servers comprising at least some of the plurality of servers (Figures 2, 3, 4, & 5; column 4, lines 1-10; column 4, line 65 to column 5, line 5).

85. Hecht does not teach:

86. a remote procedure call designed to send the request from the query manager to one of the list of servers.

87. Russell teaches:

88. a remote procedure call designed to send the request from the query manager to one of the list of servers (Abstract; column 3, lines 53-65). It would have been obvious to one with ordinary skill in the art at the time the invention was made to include the remote procedure calls of Russell with the combined system of Primak, Takano and Hecht, because it would enable a quicker and more efficient way for client's requests to be passed off to the appropriate server.

Claim Objections

89. Claims 17 and 25 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In the preamble of the parent claims, the Applicant claims a client computer, and then further limits the claims to include a processor and a computer readable medium from which the program is executed. The examiner believes that by stating a client computer in the preamble that inherently includes a processor and computer readable medium, both of which are necessary to execute the claimed program. See MPEP 2112.

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Conclusion

90. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian La Forgia whose telephone number is (703) 305-7704.

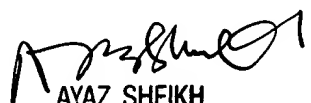
The examiner can normally be reached on Monday thru Thursday 7-5.

91. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (703) 305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7240 for regular communications and (703) 746-7239 for After Final communications.

92. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Christian LaForgia
Patent Examiner
Art Unit 2155

clf
May 1, 2003


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100